

REMARKS*Status of the Claims*

Claims 1-15 were in the application as filed.

Claims 1-15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application 2003/0142807 by Dolan, et al. (hereinafter, Dolan).

By this response, claim 13 is canceled, and claims 12 and 14 are amended.

Claims 1-12, 14 and 15 remain in the application.

**Arguments in support of patentability of claims remaining in the application***Rejection of Claims 1-15 Under 35 U.S.C. § 102(e)*

Claims 1-15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Dolan.

With regard to claim 1, Examiner states that Dolan discloses

a call management system (see Figure 1) that manages an incoming call of a subscriber (22) having an on-line data network (26) capability, said system comprising:

\* \* \*

a network presence server that accesses the network to ascertain an online status of the subscriber (paragraph 0041);

\* \* \*

a controller responsive to the online status of the subscriber to effect handling of the incoming call by at least one of the call waiting server, call transfer server, and voicemail server according to preferences stored in the memory (see Figure 13 and paragraph 0041).

It is respectfully submitted that Examiner has incorrectly interpreted the teachings of Dolan, as reflected in the last two of the above-quoted excerpts from the instant Office action. Specifically, it is submitted that Examiner has erred in applying teachings of Dolan's paragraph 0041 with applicants' "a network presence server that access the network to ascertain an online status of the subscriber."

Dolan's paragraph 0041 fails to teach "a controller responsive to the online status of the subscriber to effect handling of the incoming call by at least one of the call waiting

server, call transfer server, and voicemail server according to preferences stored in the memory.” Instead, Dolan’s paragraph 0041 purports to relate to a second embodiment:

... it can be arranged for the system to answer *all* of the client’s incoming calls. This is illustrated in FIG. 15. FIG. 15 is a schematic diagram illustrating a second embodiment of the call control system of the present invention. (Emphasis added.)

Thus, paragraph 0041 of Dolan teaches that there is no need for applicants’ “a controller responsive to the online status of the subscriber to effect handling of the incoming call by at least one of the call waiting server, call transfer server, and voicemail server according to preferences stored in the memory.” At most, paragraph 0041 teaches that Dolan’s system may *answer calls* for the client when the client’s telephone line is busy and he is logged on the Internet.” Presumably, such answering is in accordance with the immediately preceding description in paragraph 0040 of Dolan, *i.e.*, the answer is a “rude” hang-up.

Further, Examiner’s reference to paragraph 0041 and FIG. 13 of Dolan fails to teach applicants’ “a controller responsive to the online status of the subscriber to effect handling of the incoming call by at least one of the call waiting server, call transfer server, and voicemail server according to preferences stored in the memory.” Specifically, a determination by applicants’ network presence server of “an online status of the subscriber” would be contrary to Dolan’s stated operation of having “the system to answer all of the client’s incoming calls.” In the mode of operation taught in Dolan’s paragraph 0041, nothing is “responsive to the online status of the subscriber...” as recited in applicants’ claim 1. In fact, there is no subscriber telephone in the alternative embodiment of Dolan’s paragraph 0041 that *can* be online. As shown in FIG. 15, and further described in Dolan’s paragraph 0041, the phone connection to the subscriber location is broken. Regarding the usage “hard connection,” it will be appreciated that a hard connection is the connection that the subscriber would use for “having an on-line data network capability” as recited in applicants’ claim 1.

In any event, Dolan’s “central server in which all of the required intelligence is resident” (Dolan Abstract) provides alternatives for the subscriber to select a course of

action. See, *e.g.*, the “command center” of Dolan’s Figures 1, 2, 4 and 5, and Dolan’s Abstract: “This system permits the called party … to decide how to handle the call.” When Dolan’s “system … learns which callers the called party always wishes to talk to,” it does not matter whether the called party is online or not. (Dolan Abstract.)

The cite by Examiner to FIG. 13 is likewise inapposite. That figure, and the related description in paragraph 0038 of Dolan appear to relate to assistance provided by the system in developing rules for approval by the subscriber to contribute to a “dynamic profile of subscriber call treatment.” This teaching does not make up for any lack in paragraph 0041 of Dolan of any teaching of the functionality of applicants’ network presence server and its use, as recited in claim 1.

For the foregoing reasons, it is submitted that Examiner’s application of Dolan’s teachings fails to show anticipation of applicants’ claim 1 under 35 U.S.C. § 102(e). Thus it is submitted that applicants’ claim 1 is patentable over Dolan.

Claims 2-11 and 15 include all of the limitation of claim 1 and so are patentable over Dolan for the same reasons.

Claims 12 and 14, now both in independent form, have been amended to expressly include the prior limitations of original claims 13 and 14. Original claim 13 has been canceled without prejudice in favor of the retained claims. Thus, claim 12 (presently amended) now recites “wherein said servers comprise respective software modules executed by at least one data processing device that is co-located with a local exchange network of a service provider.” Contrary to Examiner’s assertion with respect to claim 13 (original, now canceled), it is respectfully submitted that Figure 2 of Dolan does not show servers of the type referred to in claim 12 (presently amended) that are “co-located with a local exchange network of a service provider.” At most, Dolan teaches that a *gateway* may be located near a local exchange switch. Recall that it is the *central server* (not a *gateway*) in which all of the required intelligence is resident. (See, *e.g.*, Dolan Abstract.)

Likewise, Dolan does not teach the limitation of claim 14 (presently amended) that “said servers comprise respective software modules executed by a data processing device located with a terminal of the subscriber.” Dolan teaches software for the

command center functionality (see, e.g., Figure 2 of Dolan), not the server functionality of claim 14 (presently amended).

For these reasons, it is submitted that claims 12 (presently amended) and 14 (presently amended) are not anticipated by Dolan.

***Conclusion***

For the foregoing reasons, it is respectfully submitted that claims 1-12, 14 and 15 remaining in the application, as presently amended, overcome or avoid all bases for rejection and are allowable. It is requested that all claims be further examined, found allowable and passed to issue.

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Respectfully,

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